



U.S. Department of Justice

*United States Attorney
Southern District of New York*

*The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007*

April 24, 2014

BY EMAIL & ECF

The Honorable Katherine B. Forrest
United States District Judge
Southern District of New York
Daniel Patrick Moynihan U.S. Courthouse
500 Pearl Street
New York, New York 10007
ForrestNYSDChambers@nysd.uscourts.gov

**Re: United States v. Mustafa Kamel Mustafa
04 Cr. 356 (KBF)**

Dear Judge Forrest:

The Government writes to apprise the Court of the parties' proposed arrangements for the closed-circuit trial testimony from the United Kingdom of Government witness, Saajid Badat.

Specifically, if it is acceptable to the Court, the parties have agreed to the following:

- The Assistant United States Attorney ("AUSA") who will question Mr. Badat on direct examination, and the counsel for the defendant who will cross examine Mr. Badat (the "Cross-Examining Attorney"), will each be co-located with the witness in the United Kingdom during his testimony.
- The video feed from the United Kingdom will depict the face of Mr. Badat, the AUSA, and the Cross-Examining Attorney; the video feed from the courtroom will depict the jury. This arrangement is in accordance with the Court's Opinion and Order dated April 12, 2014, granting the Government's Rule15/CCTV motion, except that the video feed from the courtroom will not show a close-up of the defendant's face to Mr. Badat because the courtroom feed cannot support two camera views.
- Objections will be made by the Cross-Examining Attorney and the AUSA.
- As appropriate, sidebars will be either (1) handled by the attorneys in the courtroom, or (2) handled by the AUSA and the Cross-Examining Attorney, outside the presence of the jury and Mr. Badat—either during a break using the CCTV, or telephonically using speaker-enabled telephones.
- During the CCTV testimony of Mr. Badat, the parties will be permitted to use computers with secure, high-speed, wired internet access (that access to be provided

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by the Court-approved internet provider) in order to provide a means of separate private communications between the courtroom and the Cross-Examining Attorney.

- In advance of Mr. Badat's testimony, the Government will identify to the defense and the Court the exhibits the Government anticipates showing to Mr. Badat during his direct examination. To the extent feasible, the defense will likewise identify to the Government exhibits it anticipates introducing during the cross-examination of Mr. Badat. Any exhibits actually used during examination of Mr. Badat will be signed by the AUSA and the Cross-Examining Attorney, and provided to the Court upon return.
- The Cross-Examining Attorney will bring hard copies of Mr. Badat's 3500 materials to the United Kingdom for the testimony. The Government will have electronic copies of the 3500 materials.
- The Cross-Examining Attorney will bring a laptop computer to the United Kingdom, to be used to communicate with co-counsel in the United States via instant messaging during Mr. Badat's testimony.¹

Respectfully submitted,

PREET BHARARA
United States Attorney

By: _____/s/_____
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cc: Jeremy Schneider, Esq. (by email)
Joshua Dratel, Esq. (by email)

¹ The Government has informed defense counsel that the defense attorney present in Court will need to bring a laptop computer to Court to communicate with the Cross-Examining Attorney in the United Kingdom. The laptop computer must be equipped with an instant messaging capability. The Government has offered defense counsel assistance in selecting an instant messaging service. In addition, the Government will perform a test connection from the courtroom to the United Kingdom on Friday, April 25, 2014, and has invited defense counsel to participate.